

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 PA-01 SP-02 SS-15 NSCE-00 SSO-00
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O R 281507Z APR 78 ZFF 4
FM AMEMBASSY BONN
TO SECSTATE WASHDC NIACT IMMEDIATE 8140
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 04 BONN 07981

E.O. 11652: GDS
TAGS: PGOV, BQG, AKB
SUBJECT: ALLIED STATEMENT IN BERLIN ON NICO HUEBNER

REFS: (A) USBER 980 (NOTAL)
(B) STATE 103684
(C) BONN 7509
(D) BONN 6919

BEGIN SUMMARY: THE BONN GROUP IS NOW DEADLOCKED ON
ACTION IN THE HUEBNER CASE. THE FCO HAS REFUSED TO
AGREE TO A DEMARCHE TO THE SOVIETS AND THE FRENCH ARE
UNWILLING TO ACCEPT A PUBLIC STATEMENT WITHOUT SUCH
A DEMARCHE. THE FRG SAYS IT WOULD BE UNFORTUNATE IF
NO ACTION IS TAKEN PRIOR TO BREZHNEV'S ARRIVAL IN BONN
ON MAY 4. IN VIEW OF THE FCO'S POSITION, WHICH WE HOPE
WILL CHANGE, WE WERE UNABLE TO SECURE EVEN THOROUGH
CONSIDERATION OF THE DEPARTMENT'S RECOMMENDATION FOR AN
EXPLICIT REFERENCE IN THE PRESS STATEMENT TO THE
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DEMARCHE. THE FRG AND FRENCH ARE PREPARED TO ACCEPT THE
"COMPROMISE" SOLUTION IN REF C AND, IF THE FCO DOES, WE
RECOMMEND THAT WE BE INSTRUCTED TO PRESS FOR A MORE
EXPLICIT REFERENCE TO THE DEMARCHE IN THE PRESS STATEMENT
BUT BE AUTHORIZED TO ACCEPT THE "COMPROMISE" SOLUTION IF
NECESSARY TO REACH AGREEMENT. ACTION REQUESTED:
APPROVAL OF ACTION DESCRIBED IN PARA 20 AND APPROVAL OF

STATEMENT (OR A REASONABLE VARIANT) IN PARA 16.

END SUMMARY

1. ON APRIL 25, THE FRG REP (VON RICHTHOFEN) INFORMED THE BONN GROUP THE FRG COULD ACCEPT THE "COMPROMISE" SOLUTION REF C. THE US AND FRENCH REPS REPORTED THEIR INSTRUCTIONS. THE UK REP (EYERS), WHO HAD NOT RECEIVED INSTRUCTIONS, UNDERTOOK TO REPORT.

2. AT A SPECIAL BONN GROUP MEETING CALLED TO DISCUSS THE SUBJECT ON APRIL 27, EYERS SAID THAT HE HAD NOW RECEIVED INSTRUCTIONS. EYERS SAID THAT THE FCO'S (READ HIBBERT) VIEW IS THAT EAST BERLIN IS NOT PART OF THE GDR AND THIS VIEW HAS BEEN MADE CLEAR. HOWEVER, BESIDES DEMILITARIZATION, THERE ARE OTHER ASPECTS OF EASTERN VIOLATIONS OF THE WESTERN VIEW WHICH WE DO NOT PROTEST. IT IS TRUE THAT WE PROTEST AT PUBLIC ACTS OF GDR STATE AUTHORITY OVER THE EASTERN SECTOR. HOWEVER, IT HAS NEVER BEEN OUR PRACTICE TO PROTEST "INDIVIDUAL AND SPECIFIC" CASES, SUCH AS THE HUEBNER CASE. THE ALLIES WOULD GET THEMSELVES IN TROUBLE, AN "IMPOSSIBLE POSITION," IF, BY INTERVENING IN THE HUEBNER CASE, WE SET A PRECEDENT FOR INTERVENING IN OTHER INDIVIDUAL CASES. THIS IS THE FCO'S FUNDAMENTAL CASE AND THIS PRECEDENT CAUSES THE FCO GREAT CONCERN.

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3. HE SAID THERE IS A SECOND POINT TO BE MADE. IF THERE IS NO APPROACH TO THE SOVIETS, WE HAVE TO MAKE OUR POSITION CLEAR IN PUBLIC. HE THEN DISTRIBUTED A NEW SUGGESTED DRAFT OF A PUBLIC STATEMENT, THE TEXT OF WHICH FOLLOWS:

BEGIN TEXT

THE ALLIED POSITION ON THESE MATTERS IS WELL KNOWN. THE ALLIES DO NOT REGARD EAST BERLIN AS PART OF THE GDR: AND THEY REGARD THE QUADRIPARTITE LEGISLATION ON DEMILITARIZATION AS APPLYING TO THE WHOLE OF BERLIN. THE SOVIET AUTHORITIES ARE WELL AWARE THAT THE ALLIED POSITION IN THESE RESPECTS REMAINS UNCHANGED. BUT IT IS NOT ALLIED PRACTICE TO INVOKE EITHER OF THESE PRINCIPLES IN ORDER TO JUSTIFY INTERVENTION IN DETAILED AND INDIVIDUAL CASES OF THE EXERCISE OF PUBLIC AUTHORITY IN EAST BERLIN.

END TEXT

4. THE FRENCH REP (GAUSSOT) SAID THAT HIS INSTRUCTIONS

DID NOT AUTHORIZE HIM EVEN TO CONSIDER A NEW TEXT OF A

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FM AMEMBASSY BONN
TO SECSTATE WASHDC NIACT IMMEDIATE 8141
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PUBLIC STATEMENT. THE FRENCH CANNOT ACCEPT A PUBLIC
STATEMENT IF THERE IS NO DEMARCHE. THE FRENCH EMBASSY
WAS INFORMED APRIL 27 BY THE QUAI THAT IT IS NOT AUTHOR-
IZED TO ACCEPT ANYTHING BUT THE COMPROMISE STATEMENT.

5. EYERS SAID HE FOUND IT DIFFICULT TO FOLLOW THE
QUAI'S ARGUMENTS IN FAVOR OF A DEMARCHE TO THE SOVIETS.
HE UNDERSTOOD THE ARGUMENT TO BE THAT THE FRENCH CONSIDER
IT IMPORTANT TO SPEAK TO THE SOVIETS ABOUT THIS MATTER,
ALTHOUGH WE HAVE NOT SPOKEN TO THEM ABOUT DEMILITARIZA-
TION SINCE 1962. EYERS SAID HE UNDERSTOOD SUCH A
DEMARCH WAS CONSIDERED TWO YEARS AGO BUT WAS NOT MADE,
FOR REASONS OF WHICH HE WAS NOT AWARE.

6. GAUSSOT SAID THAT THE FRENCH VIEW THIS AS AN
OPPORTUNITY TO STATE ONCE AGAIN TO THE SOVIETS A POSITION
WHICH HAS NOT BEEN STATED FOR YEARS; WE SHOULD NOT
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REMAIN SILENT IN THIS CASE. HE SAID THAT WITH RESPECT TO THE PUBLIC OPINION ASPECT, THE FRENCH WERE PREPARED TO DISCUSS THE US SUGGESTION FOR A SPECIFIC REFERENCE TO A DEMARCHE.

7. EYERS REPEATED THE POINT OF THE UK ARGUMENT--WE HAVE NOT MADE DEMARCHES TO THE SOVIETS SINCE 1962 REGARDING THE DEMILITARIZED STATUS OF EAST BERLIN. THE US REP SAID THAT WE HAVE MADE THIS CLEAR IN CONNECTION WITH MILITARY PARADES. EYERS SAID WE HAD CONFINED OURSELVES TO PUBLIC STATEMENTS AND NOT MADE DEMARCHES TO THE SOVIETS. (COMMENT: THE US REP WAS UNABLE TO CONTRADICT THIS STATEMENT BECAUSE OF LACK OF KNOWLEDGE. WE WOULD APPRECIATE USBER'S CONFIRMATION THAT IT IS CORRECT.)

8. GAUSSOT REJOINED THAT WE PROTESTED THE CHANGES IN THE STATUS OF EAST BERLIN IN EARLY 1977. EYERS DISTINGUISHED THIS BY SAYING THOSE CHANGES WERE SOMETHING NEW; WHEN WE SPEAK OF DEMILITARIZATION WE SPEAK OF A PRACTICE WHICH HAS BEEN SANCTIFIED DE FACTO FOR YEARS. EYERS VAINLY SOUGHT SUPPORT FROM THE BERLIN REPRESENTATIVE (MEICHSNER) BY REFERRING TO THE LATTER'S RECENT CAUTIONARY REMARKS (PARAGRAPH 6 OF REF D) BUT MEICHSNER SAID THAT THE SENAT DOES NOT WANT TO SEE THE OPPORTUNITY FOR A PROTEST AND PUBLIC STATEMENT PASSED UP. THE ONLY SENAT CONCERN WAS THAT THE ALLIES NOT AWAKEN FALSE HOPES IN EAST BERLIN.

9. THE US REP NOTED THAT, EARLIER IN THE DISCUSSION AND PREVIOUSLY, EYERS HAD SAID THAT A DEMARCHE TO THE SOVIETS WILL SERVE NO PURPOSE IN TERMS OF PRACTICAL CHANGES IN THE SOVIET ATTITUDE OR PROVIDE A BENEFIT TO

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HUEBNER. HE SAID THAT THIS WAS ALSO TRUE OF SOVIET DEMARCHES TO THE ALLIES. HOWEVER, HE SAID HE WISHED TO ASK A SIMPLE QUESTION: WHAT HARM WILL A DEMARCHE DO? IT WILL ANNOY THE SOVIETS, BUT THE US IS PREPARED TO DO SO IN THIS CASE.

10. EYERS REPEATED THAT WE HAVE NOT MADE SUCH A DEMARCHE BEFORE IN THE CIRCUMSTANCES OF AN INDIVIDUAL CASE SUCH AS THIS AND THAT IT HAS NOT BEEN OUR PRACTICE TO DO SO. HE SAID WE SHOULD NOT PUT OURSELVES IN AN "IMPOSSIBLE" POSITION BY SETTING A PRECEDENT

WITH THE PRESS AND PUBLIC OPINION.

THE FRENCH AND US REPS SAID THAT THIS DEMARCHE NEED NOT BE REGARDED AS A PRECEDENT AND THAT THIS TYPE OF CASE (WITH ATTENDANT PUBLICITY) HAS PRESUMABLY NOT ARISEN BEFORE. THE US REP DOUBTED THAT OTHER EAST BERLINERS WOULD BE ENCOURAGED TO ENDURE SEVERAL YEARS OF PRISON JUST TO INSPIRE AN ALLIED DEMARCHE.

11. THE FRG REP (VON BRAUNMUEHL) SAID THERE IS A PRACTICAL QUESTION INVOLVED HERE, WHETHER THE SOVIETS WILL CHANGE THEIR VIEW, AND THE ANSWER IS NEGATIVE. HOWEVER, THERE IS A MORE IMPORTANT QUESTION OF PRINCIPLE, THE STATUS OF EAST BERLIN. THE PUBLIC AND THE EASTERN SIDE WILL DRAW CONCLUSIONS FROM OUR ACTION, WHETHER IT BE SILENCE OR OTHERWISE. IF THE ALLIES REMAIN SILENT, THE SOVIETS ESPECIALLY WILL DRAW UNFORTUNATE CONCLUSIONS REGARDING OUR ATTITUDE ABOUT THE STATUS OF EAST BERLIN. HE SAID THE FRG COULD ACCEPT THE "COMPROMISE" FORMULA AS THE LOWEST COMMON DENOMINATOR ALTHOUGH IT PREFERRED THE US POSITION.

12. THE US REP, IN RESPONSE TO EYERS' QUESTION AS TO

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FM AMEMBASSY BONN
TO SECSTATE WASHDC NIAC IMMEDIATE 8142
INFO AMEMBASSY BERLIN
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THE US VIEW ON THE VALUE OF A PROTEST, SAID THAT IT APPEARED TO US THAT WHILE THE PUBLIC STATEMENT WAS THE MORE IMPORTANT OF THE TWO, THE PROTEST WAS IMPORTANT IN AND OF ITSELF. OUR POSITION REGARDING THE STATUS OF THE EASTERN SECTOR CAN ONLY BE MAINTAINED THROUGH THE CONTINUATION OF FLAG TOURS AND STATEMENTS OF OUR LEGAL POSITION. FURTHERMORE, IF THERE IS NO PROTEST, THE PUBLIC STATEMENT WOULD BE RATHER LAME SINCE IT COULD NOT REFER TO ONE AS THE DEPARTMENT VERY MUCH WANTS IT TO.

13. VON BRAUNMUEHL SAID THAT THE FRG WOULD FIND IT EMBARRASSING IF THE ALLIES HAD NOT MADE A PUBLIC STATEMENT BY THE TIME BREZHNEV ARRIVES IN BONN ON MAY 4 SINCE THIS COULD RESULT IN A PUBLIC DEBATE ON ALLIED FIRMNESS REGARDING BERLIN. HE SAID THAT THE FRG MIGHT TAKE UP THIS MATTER IN LONDON (COMMENT: AS OF 1:00 P.M. CONFIDENTIAL

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TODAY, THE FOREIGN OFFICE HAS NOT DECIDED WHETHER TO DO SO. END COMMENT).

14. GAUSSOT AND EYERS SAID THAT NO FURTHER DISCUSSION AS TO WHETHER OR NOT A PROTEST SHOULD BE MADE WAS USEFUL UNTIL THE FCO HAD AGAIN CONSIDERED THE MATTER. THE US REP SAID THAT IN THE INTEREST OF TIME, WE SHOULD CONSIDER, AS A HYPOTHETICAL MATTER SINCE THE FCO WAS NOT NOW AGREEABLE TO A PROTEST, THE DEPARTMENT'S STRONG VIEW THAT AN EXPLICIT REFERENCE SHOULD BE MADE TO THE PROTEST IN THE PUBLIC STATEMENT. EYERS SAID THAT HE WAS NOT IN A POSITION TO PARTICIPATE IN SUCH A DISCUSSION ALTHOUGH HE WOULD REPORT THE DEPARTMENT'S VIEWS. THE US REP URGED AGAIN THAT THIS BE DONE IN THE INTEREST OF TIME AND EYERS SAID THAT POSING TWO QUESTIONS TO LONDON RATHER THAN ONE WOULD NOT SAVE TIME. THE US REP SAID THAT FURTHER DELAY WOULD THEN BE INEVITABLE SINCE, EVEN IF THE FCO AGREED TO A DEMARCHE TO THE SOVIETS, THE TEXT OF THE PUBLIC STATEMENT WOULD NEED TO BE STRENGTHENED IN ORDER TO TAKE ACCOUNT OF THE DEPARTMENT'S VIEWS.

15. THE U REP ALSO EMPHASIZED THAT THE US HAS A CONSISTENT RECORD OF COMPROMISE AND WILLINGNESS TO ACCEPT OTHERS' VIEWS IN PREPARATION OF BONN GROUP TEXTS. THE DEPARTMENT IS NOT RESPONSIBLE FOR THE DELAY IN ANSWERING PROTESTS SINCE IT GENERALLY ABSTAINS FROM REVISIONS OF SUCH TEXTS. HE SAID THAT IF THERE IS DELAY BECAUSE OF OTHERS' UNWILLINGNESS TO DISCUSS WAYS OF REDRAFTING THE PUBLIC STATEMENT IN ORDER TO MEET THE DEPARTMENT'S PRESENT

AND WELL-FOUNDED OBJECTIONS TO IT, THE RESPONSIBILITY FOR SUCH DELAY WAS NOT OURS.

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16. WITH REGARD TO THE DEFENSIVE PRESS LINE IN THE PUBLIC STATEMENTS, GAUSSOT SAID THAT THE QUAI'S INSTRUCTIONS ON THIS SUBJECT WERE SIMILAR TO THOSE OF THE DEPARTMENT. IN ADDITION, THE QUAI WANTED SOME REFERENCE MADE TO THE ALLIED EFFORTS TO CARRY OUT ALLIED KOMMANDATURA DECISIONS IN THE EASTERN SECTOR OF BERLIN. ALTHOUGH NO AGREEMENT ON A DEFENSIVE PRESS LINE WAS REACHED, THE FOLLOWING TEXT WAS SUGGESTED AS APPROPRIATE: "SOVIET OBSTRUCTION FOR THE PAST 30 YEARS HAS FRUSTRATED ALLIED EFFORTS TO CARRY OUT DECISIONS OF THE ALLIED KOMMANDATURA IN THE EASTERN SECTOR OF BERLIN."

17. COMMENT: AS THE FOREGOING SHOWS, WE ARE NOW DEADLOCKED, -WITH THE FCO HOLDING UP AN AGREEMENT TO A DEMARCHE. ALL AGREE, HOWEVER, THAT IT WOULD BE A MISTAKE TO DO NOTHING AND VON BRAUNMUEHL'S ARGUMENT REGARDING THE DANGER OF THIS COURSE AT THE TIME OF BREZHNEV'S VISIT APPEARS TO US TO BE A COMPELLING ONE.

18. MAY 1 IS A PUBLIC HOLIDAY HERE AND BREZHNEV ARRIVES ON MAY 4, SO LITTLE TIME IS LEFT. THE FRG WOULD BE PREPARED TO ACCEPT, AND EVEN PREFERS, IN THE PRESS STATEMENT A SPECIFIC REFERENCE TO THE DEMARCHE. THE FRENCH BONN GROUP REP (RICHARD) SAYS HE WOULD BE PREPARED TO RECOMMEND A MORE EXPLICIT REFERENCE, BUT HE DOES NOT KNOW HOW HIS AMBASSADOR OR THE QUAI FEELS. ALL OF US QUESTION WHETHER THE FCO, IF IT CAN BE BROUGHT AROUND TO ACCEPT A DEMARCHE, WOULD, IN THE TIME BEFORE THE BREZHNEV VISIT, BE PREPARED TO INCLUDE SUCH A REFERENCE.

19. WE CANNOT SAY THAT FURTHER DISCUSSION IS FRUITLESS (REF A). HOWEVER, UNLESS THE FCO AND QUAI ARE PREPARED, IN RESPONSE TO THE REPORTS OF YESTERDAY'S MEETING, TO

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O R 281521Z APR 78 ZFF 4
FM AMEMBASSY BONN
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ACCEPT A MORE EXPLICIT REFERENCE IN THE PRESS STATEMENT
TO THE DEMARCHE, WE QUESTION WHETHER AGREEMENT CAN BE
REACHED ON SUCH A REFERENCE IN TIME FOR THE BREZHNEV
VISIT. THE FRG AND FRENCH ARE PREPARED TO ACCEPT THE
"COMPROMISE" SOLUTION. IF THE FCO DOES, WE BELIEVE
IT WOULD BE UNFORTUNATE FOR THE US TO BLOCK THE USE OF
THAT SOLUTION ALTHOUGH WE FULLY AGREE THAT IT SHOULD BE
STRENGTHENED.

20. WE THEREFORE RECOMMEND THAT WE BE INSTRUCTED TO
PRESS FOR A STATEMENT ALONG THE LINES "THIS POSITION HAS
AGAIN BEEN MADE CLEAR TO THE SOVIETS" OR, AS A FALLBACK,
"THE SOVIETS HAVE BEEN LEFT IN NO DOUBT ABOUT OUR
POSITION." (REF C, PARAGRAPH 5). IF ALL ELSE FAILS, AND
ASSUMING THAT THE FCO IS PREPARED TO ACCEPT THE "COMPRO-
MISE" SOLUTION, WE RECOMMEND THAT WE BE AUTHORIZED TO
DO SO ALSO WITHOUT THE NEED FOR NEW INSTRUCTIONS RATHER
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THAN BLOCK THE USE OF THE DEMARCHE AND PUBLIC STATEMENT
IN THE TIME REMAINING.

21. WITH REFERENCE TO REF A, WE DO NOT DISAGREE WITH USBER'S REASONING BUT WOULD DEFER TO VON BRAUNMUEHL AND MEICHSNER, BOTH OF WHOM STRONGLY FAVOR THE "COMPROMISE" AT A MINIMUM, REGARDING THE LIKELY EFFECT ON THE PUBLIC IN THE FRG AND BERLIN. THE FRENCH ARE NOT PREPARED TO ACCEPT A REFERENCE TO HUEBNER IN THE STATEMENT. HOWEVER, THIS IS NOT FATAL TO THE STATEMENT, IN OUR VIEW, SINCE THE PRESS QUESTION WILL PRESUMABLY BE PHRASED TO INQUIRE ABOUT THE HUEBNER CASE AND DEMILITARIZATION ALL IN ONE SENTENCE.

22. ACTION REQUESTED: APPROVAL OF ACTION DESCRIBED IN PARAGRAPH 20 AND APPROVAL OF STATEMENT (OR A REASONABLE VARIANT) IN PARAGRAPH 16.
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